

## 21 C.J.S. Courts § 96

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### Courts

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### II. Jurisdiction of Courts

#### J. Objections to Jurisdiction; Estoppel or Waiver of Objections

## § 96. Objections to personal jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Courts](#)  37(1)

**A challenge to personal jurisdiction may be raised either as an affirmative defense in the answer or by a motion to dismiss.**

A challenge to personal jurisdiction may be raised either as an affirmative defense in the answer<sup>1</sup> or in a motion to dismiss for lack of jurisdiction over the person.<sup>2</sup>

Generally, a defendant contesting the sufficiency of long-arm jurisdiction allegations must file a legally sufficient affidavit in support of the defendant's position, shifting the burden back to the plaintiff to prove by affidavit the basis on which jurisdiction may be obtained.<sup>3</sup> If the plaintiff fails to plead facts bringing the defendant within the reach of the state long-arm statute, the defendant need only show that it is not a state resident in order to negate jurisdiction.<sup>4</sup> If a complaint does not allege a sufficient basis to assert long-arm jurisdiction over the defendant, the court need not reach the issue of whether the defendant has the requisite minimum contacts with the state.<sup>5</sup>

### CUMULATIVE SUPPLEMENT

#### Cases:

Even if general jurisdiction provision of long-arm statute applied to insurance broker which procured insured's automobile insurance policy, broker did not have sufficient minimum contacts with Florida to satisfy due process requirements in action brought by representatives of insured's estate, after insured's death in collision, based on broker's alleged failure to procure

adequate underinsured motorist coverage, where broker was not incorporated in Florida, did not maintain its principal place of business there, and was not so heavily engaged in activity in state as to render it essentially at home there. [U.S. Const. Amend. 14](#); [Fla. Stat. Ann. § 48.193\(2\)](#); [Fla. R. Civ. P. 1.070\(i\)](#). [Woodruff-Sawyer & Co. v. Ghilotti](#), 255 So. 3d 423 (Fla. 3d DCA 2018).

**[END OF SUPPLEMENT]**

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Footnotes

- 1 Ind.—[Boyer v. Smith](#), 42 N.E.3d 505 (Ind. 2015).
- As to pleading personal jurisdiction, see § 45.
- 2 Del.—[Uribe v. Maryland Auto. Ins. Fund](#), 115 A.3d 1216 (Del. 2015).
- Fla.—[Redwood Recovery Services, LLC v. Addle Hill, Inc.](#), 140 So. 3d 1037 (Fla. 3d DCA 2014).
- Ind.—[Boyer v. Smith](#), 42 N.E.3d 505 (Ind. 2015).
- Or.—[Munson v. Valley Energy Inv. Fund, U.S., LP](#), 264 Or. App. 679, 333 P.3d 1102 (2014).
- Wyo.—[Wise v. Ludlow](#), 2015 WY 43, 346 P.3d 1 (Wyo. 2015).
- 3 Fla.—[Rollet v. de Bizemont](#), 159 So. 3d 351 (Fla. 3d DCA 2015).
- Wis.—[Carlson v. Fidelity Motor Group, LLC](#), 2015 WI App 16, 360 Wis. 2d 369, 860 N.W.2d 299 (Ct. App. 2015).
- 4 Tex.—[Booth v. Kontomitras](#), 2016 WL 240887 (Tex. App. Beaumont 2016).
- 5 § 45.